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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,914	07/18/2003	Ellis I. Betensky	490962002200	5004

7590 10/05/2004
Glenn M. Kubota
Morrison & Foerster LLP
35th Floor
555 W. 5th Street
Los Angeles, CA 90013

EXAMINER

SUGARMAN, SCOTT J

ART UNIT PAPER NUMBER

2873

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,914

Applicant(s)

BETENSKY ET AL.

Examiner

Scott J. Sugarman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-161 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-58, 77-143, 160 and 161 is/are allowed.
- 6) ☒ Claim(s) 59, 61, 72-76, 144, 145, 147 and 155-159 is/are rejected.
- 7) ☒ Claim(s) 60, 62-71, 146 and 148-154 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-9-04; 3-18-04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 59, 61, 72-76, 144, 145, 147, 155-159 are rejected under 35

U.S.C. 102(b) as being anticipated by Roberts. Regarding claim 59, 61 and 72-76, Roberts teaches a zoom lens system having a zoom kernel (O; elements 1-6) for forming an intermediate real image (see col. 2, lines 46-48) and a zoom relay (E; elements 7-9) for magnifying the intermediate real image to form a final image, where the zoom lens system has a zoom ratio of at least 10 to 1 (col. 2, lines 22-39). As a part of a zoom lens system, eye-piece (E) can be considered a "zoom relay", since there is nothing in the claim that requires it to be a zoom itself (limitations in the specification cannot be read into the claim). Note, it is conceded that eye-piece (E) is not a zoom (variable powered) lens unit itself. The zoom relay (E) is at least temporarily stationary, while the zoom kernel (O) moves (col. 2, lines 61-64). The first lens unit of (O) can be movable for focusing (col. 3, lines 19-22) and there can be one or more aspheric surfaces in the system (col. 8, lines 55-58).

Regarding claims 144, 145, 147 and 155-159, Roberts teaches a zoom lens system having a zoom kernel (O) for forming an intermediate real image (see col. 2,

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lines 46-48); and a zoom relay (E) for magnifying the intermediate real image to form a final image; wherein the zoom kernel comprises an optical unit which has a negative power (col. 2, lines 56-64) and movement of the optical unit serves as the primary source of magnification change for said zoom kernel. Note, the zoom ratio can be at least 10 to 1 (col. 2, lines 22-39). Again, as a part of a zoom lens system, eye-piece (E) can be considered a "zoom relay", since there is nothing in the claim that requires it to be a zoom itself (limitations in the specification cannot be read into the claim). Note, it is conceded that eye-piece (E) is not a zoom (variable powered) lens unit itself. The zoom relay (E) is at least temporarily stationary, while the zoom kernel (O) moves (col. 2, lines 61-64). The first lens unit of (O) can be movable for focusing (col. 3, lines 19-22) and there can be one or more aspheric surfaces in the system (col. 8, lines 55-58).

Allowable Subject Matter

Claims 1-58, 77-143, 160 and 161 are allowed.

Claims 60, 62-71, 146 and 148-154 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

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The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented, for example, in independent claim 41, which include a zoom lens system having a variable focal length lens unit that forms an intermediate real image of an object and a variable focal length lens unit that forms a real image of the intermediate real image where the zoom lens system has a zoom ratio of at least 10 to 1. In Sekiguchi (US 3,970,366), of record, although a zoom ratio of 1 to 33.3 is taught and has a secondary principal plane (101), it does not meet the recited limitations of the allowed claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott J. Sugarman whose telephone number is (571)272-2340.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Scott J. Sugarman
Primary Examiner
Art Unit 2873

sjs
September 28, 2004